



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,835	12/29/2000	Atul N. Hatakar	10559/355001/P10032	9274

20985 7590 02/06/2006

FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER

LE, HIEU C

ART UNIT	PAPER NUMBER
----------	--------------

2142

DATE MAILED: 02/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/751,835

Applicant(s)

HATALKAR, ATUL N.

Examiner

Hieu c. Le

Art Unit

2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-42 is/are pending in the application.
- 4a) Of the above claim(s) 21-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 37-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2142

1. The amendment file 1/14/05 have been entered and made of record.
2. Applicant's argument filed 1/14/05 have been fully considered but they are moot in view of new ground rejection.
3. Newly submitted claims 37-42 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Claims 21-36 drawn a head end system, method and an article for an interactive communication from one or more client to generate alert management message and broadcast the alert management message.

Claims 37-42 drawn a drawn to a method of sending an alert management message to a plurality of recipients on a broadcast channel.

4. The inventions are distinct, each from the other because of the following reasons: Inventions I, and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other they are shown to be separately usable. In the instant case, invention I (claim 21-36) has separate utility such as one or more client to generate alert management message and broadcast the alert management message. Invention II (claims 37-42) has separate utility such as an alert management message and method comprising a first data field comprising and an ID of a target set of clients, a second data field comprising an alert type message and a third data field comprising status message. See MPEP. 806.05(d).

Since applicant has received an action on the merits for the originally presented invention (claims 37-42), this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 21-36 withdrawn from

Art Unit: 2142

consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP 821.03.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 37-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 37 includes the limitation of receiving an alert *from at* one of the plurality of recipients. The language "from at" makes this claim unclear. One possible interpretation is that the method requires receiving an alert *from at least one* of the plurality of recipients. Another possible interpretation is that the method requires receiving an alert *at one* of the plurality of recipients. Another possible interpretation is that the method requires receiving an alert *from one* of the plurality of recipients. For ³⁷⁻³⁹ purposes of prior art rejections in this Office action, claims ~~37~~ ³⁷⁻³⁹ will be construed as if it requires receiving an alert *from one* of the plurality of recipients since this construction is consistent with claim 40. (PC)

Claim Rejections - 35 U.S.C. § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 2142

8. Claims 37-38, 40-41 are rejected under 35 U.S.C. 102(b) as anticipated by Lemair et al (US Patent 5,594,658).

As to claim 37, Lemaire anticipates the claimed invention by disclosing a method comprising:

Receiving an alert from at least one of the plurality of recipients (col. 2 lines 21-36 receiving a message at the input device from a member of one of the small groups of recipients discussed at col. 2 lines 37-59);

Generating a first data field that identifies at least one target recipient from among the plurality of recipients, the at least one target recipient including the one of the plurality of recipients (col. 2 lines 37-59 pager message containing identification code/first data field identifying a small group of recipients);

Generating a second data field that identifies the type of alert management message, wherein the type of alert management message is based on the alert (col. 2 lines 37-59 classification information as type);

Transmitting the data fields to the recipients (col. 3 lines 11-13).

As to claim 38, Lemaire further teaches comprising generating a third data field that uniquely identifies the alert management message (col. 2 lines 37-59 subject description as unique identification).

As to claims 40-41, they are computer readable media claims corresponding to method claims 37-38 and are rejected for the same reasons.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 39 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Lemaire et al (US. Patent. 5,594,658) as applied to claim 37 above in view of Chander et al., (U.S. Patent No. 5,909,651).

As to claim 39, Lemaire teaches the invention substantially as claimed. See the rejection of claim 37 above. Lemaire also teaches system that receives variable length text messages (col. 2 lines 37-59 content of the message itself as payload). Lemaire then teaches the step of generating the payload message, the payload message comprised of at least one byte. Lemaire also teaches the step of transmitting the payload message since the content of the message is sent to the receiving means (col. 3 lines 11-13).

Lemaire however does not teach the step of transmitting the number of bytes in the payload message.

Chandler on the other hand teaches a method in which messages transmitted over a radio channel to mobile devices have included in them a message size/length parameter that informs the mobile device of how long the message is (col. 5 lines 12-20).

Art Unit: 2142

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Chandler's teaching regarding the transmission of message length with the system of Lemaire by including a message size in the transmitted message. This combination would have been obvious because of Chandler's teaching that use of a message size can allow a portable device like the ones in Chandler and Lemaire to stay awake just long enough to receive the entire message before returning to an energy-conserving sleep mode, thus extending battery life (col. 5 lines 14-20).

As to claim 42, it is a computer readable media claims corresponding to method claims 39 and is rejected for the same reasons.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 2142

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hieu Le whose telephone number is (571) 272-3897. The examiner can normally be reached on Monday to Friday from 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Caldwell Andrew, can be reached on (571) 272-3868. The fax phone number for this Group is (571)-273-3897.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) **273**-8300.

Hieu Le

A handwritten signature in black ink that reads "Andrew Caldwell". The signature is fluid and cursive, with the first name "Andrew" and last name "Caldwell" clearly distinguishable.

ANDREW CALDWELL
SUPERVISORY PATENT EXAMINER